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DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-801]

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results of the Antidumping Duty Administrative Review; 2012-2013

AGENCY: Enforcement and Compliance, International Trade Administration,
Department of Commerce.

SUMMARY: The Department of Commerce (“the Department”) is conducting the tenth administrative review of the antidumping duty order on certain frozen fish fillets (“fish fillets”) from the Socialist Republic of Vietnam (“Vietnam”).¹ The Department preliminarily determines that the Hung Vuong Group (“HVG”)² sold subject merchandise in the United States at prices below normal value (“NV”) during the period of review (“POR”) August 1, 2012, through July 31, 2013. With respect to Anvifish Joint Stock Company (“Anvifish”), this exporter failed to establish that it is separate from the Vietnam-wide entity. As a result, the Vietnam-wide entity is now under review.³ We are preliminarily applying adverse facts available (“AFA”) to the Vietnam-wide entity because an element of the entity, Anvifish, failed to act to the best of its ability in complying with the Department’s request for information in this review within the

¹ See *Notice of Antidumping Duty Order: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 47909 (August 12, 2003) (“Order”).

² The Department previously found that An Giang Fisheries Import & Export Joint Stock Company (“Agifish”) is a member of the Hung Vuong Group, which also includes Asia Pangasius Company Limited, Europe Joint Stock Company, Hung Vuong Joint Stock Company, Hung Vuong Mascato Company Limited, Hung Vuong – Vinh Long Co., Ltd. and Hung Vuong – Sa Dec Co., Ltd. See *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the Antidumping Duty Administrative Review and New Shipper Review; 2011–2012*, 79 FR 19053 (April 7, 2014).

³ On November 4, 2013, the Department announced a change in practice with respect to the conditional review of the NME entity. See *Antidumping Proceedings; Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Proceedings*, 78 FR 65963 (Nov. 4, 2013). This review initiated before this change in practice became effective; therefore, the Department’s new practice does not apply to this segment.

established deadlines, significantly impeded the proceeding, and provided information that cannot be verified. If these preliminary results are adopted in the final results, the Department will instruct U.S. Customs and Border Protection (“CBP”) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results.

DATES: EFFECTIVE DATE: INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*.

FOR FURTHER INFORMATION CONTACT: Paul Walker or Steven Hampton, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone 202-482-0413 or 202-482-0116, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 2, 2013, the Department initiated the tenth administrative review of the antidumping duty order on fish fillets from Vietnam for the period August 1, 2012, through July 31, 2013.⁴ As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.⁵ On March 26, 2014, the Department partially extended the deadline for issuing the preliminary results by 30

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 60834 (October 2, 2013) (“*Initiation Notice*”). On November 8, 2013, the Department published a second notice to list two companies that were inadvertently omitted from the *Initiation Notice*. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 67104 (November 8, 2013).

⁵ See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, “Deadlines Affected by the Shutdown of the Federal Government” (October 18, 2013).

days.⁶ On June 11, 2014, the Department partially extended the deadline for issuing the preliminary results by 14 days.⁷ The revised deadline for the preliminary results of this administrative is now July 2, 2014.

Scope of the Order

The product covered by the order is frozen fish fillets, including regular, shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti*, *Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*) and *Pangasius Micronemus*. These products are classifiable under tariff article codes 0304.29.6033, 0304.62.0020, 0305.59.0000, 0305.59.4000, 1604.19.2000, 1604.19.2100, 1604.19.3000, 1604.19.3100, 1604.19.4000, 1604.19.4100, 1604.19.5000, 1604.19.5100, 1604.19.6100 and 1604.19.8100 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the Harmonized Tariff Schedule of the United States (“HTSUS”).⁸ Although the HTSUS subheading is provided for convenience and Customs purposes, our written description of the scope of the order is dispositive.⁹

⁶ See Memorandum to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations regarding “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Deadline for Preliminary Results of 2012-2013 Antidumping Duty Administrative Review,” dated March 26, 2014.

⁷ See Memorandum to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations regarding “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Deadline for Preliminary Results of 2012-2013 Antidumping Duty Administrative Review,” dated June 11, 2014.

⁸ Until July 1, 2004, these products were classifiable under HTSUS 0304.20.6030 (Frozen Catfish Fillets), 0304.20.6096 (Frozen Fish Fillets, NESOI), 0304.20.6043 (Frozen Freshwater Fish Fillets) and 0304.20.6057 (Frozen Sole Fillets). Until February 1, 2007, these products were classifiable under HTSUS 0304.20.6033 (Frozen Fish Fillets of the species *Pangasius*, including basa and tra). On March 2, 2011, the Department added two HTSUS numbers at the request of U.S. Customs and Border Protection (“CBP”): 1604.19.2000 and 1604.19.3000. On January 30, 2012, the Department added eight HTSUS numbers at the request of CBP: 0304.62.0020, 0305.59.0000, 1604.19.2100, 1604.19.3100, 1604.19.4100, 1604.19.5100, 1604.19.6100 and 1604.19.8100.

⁹ See “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Decision Memorandum for the Preliminary Results of the 2012-2013 Antidumping Duty Administrative Review,” dated concurrently with and hereby adopted by this notice (“Preliminary Decision Memorandum”), for a complete description of the Scope of the Order.

Preliminary Determination of No Shipments

On December 11, 2013, the following companies filed no-shipment certifications indicating that they did not export subject merchandise to the United States during the POR: An Giang Agriculture and Food Import-Export Joint Stock Company; Golden Quality Seafood Corporation; Hoa Phat Seafood Import-Export and Processing J.S.C.; and To Chau Joint Stock Company. Based on the certifications submitted by the above companies, and our analysis of the CBP information, we preliminarily determine that An Giang Agriculture and Food Import-Export Joint Stock Company, Golden Quality Seafood Corporation, Hoa Phat Seafood Import-Export and Processing J.S.C., and To Chau Joint Stock Company¹⁰ did not have any reviewable transactions during the POR. The Department finds that consistent with its practice in non-market economy (“NME”) cases, it is appropriate not to rescind the review in part in this circumstance but, rather, to complete the review with respect to the above named companies and issue appropriate instructions to CBP based on the final results of the review.¹¹

Methodology

The Department conducted this review in accordance with sections 751(a)(1)(B) and 751(a)(2)(A) of the Tariff Act of 1930, as amended (“the Act”). Constructed export prices and export prices have been calculated in accordance with section 772 of the Act. Because Vietnam is an NME within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c) of the Act.

¹⁰ See Memorandum to the File through Scot T. Fullerton, Program Manager, Office V, Enforcement and Compliance, through Steven Hampton, International Trade Compliance Analyst, Office V, Enforcement and Compliance, regarding “2012-2013 Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam,” dated February 28, 2014.

¹¹ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-65695 (October 24, 2011).

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). IA ACCESS is available to registered users at <http://iaaccess.trade.gov>, and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margins exist for the period August 1, 2012, through July 31, 2013:

Exporter	Weighted-Average Margin (Dollars/Kilogram) ¹²
Hung Vuong Group ¹³	0.58
An Giang Agriculture and Food Import-Export Joint Stock Company	(*)
Asia Commerce Fisheries Joint Stock Company	0.58
Binh An Seafood Joint Stock Company	0.58
Cadovimex II Seafood Import-Export and Processing Joint Stock Company	0.58
Can Tho Import-Export Joint Stock Company	0.58

¹² In the third administrative review of this order, the Department determined that it would calculate per-unit assessment and cash deposit rates for all future reviews. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Partial Rescission*, 73 FR 15479 (March 24, 2008).

¹³ This rate is applicable to the Hung Vuong Group, which includes: An Giang Fisheries Import and Export Joint Stock Company, Asia Pangasius Company Limited, Europe Joint Stock Company, Hung Vuong Joint Stock Company, Hung Vuong Mascato Company Limited, Hung Vuong – Vinh Long Co., Ltd., and Hung Vuong – Sa Dec Co., Ltd.

C.P. Vietnam Corporation	0.58
Cuu Long Fish Joint Stock Company	0.58
Dai Thanh Seafoods Company Limited	0.58
Fatifish Company Limited	0.58
GODACO Seafood Joint Stock Company	0.58
Golden Quality Seafood Corporation	(*)
Hiep Thanh Seafood Joint Stock Company	0.58
Hoang Long Seafood Processing Company Limited	0.58
Hoa Phat Seafood Import-Export and Processing J.S.C.	(*)
International Development and Investment Corporation	0.58
Nam Viet Corporation	0.58
Ngoc Ha Co., Ltd. Foods Processing and Trading	0.58
NTSF Seafoods Joint Stock Company	0.58
Quang Minh Seafood Company Limited	0.58
QVD Food Company Ltd. ¹⁴	0.58
Saigon-Mekong Fishery Co., Ltd.	0.58
Southern Fisheries Industries Company Ltd.	0.58
TG Fishery Holdings Corporation	0.58
Thien Ma Seafood Company Limited	0.58
Thuan An Production Trading and Services Co., Ltd.	0.58
To Chau Joint Stock Company	(*)
Vinh Quang Fisheries Joint-Stock Company	0.58
Vietnam-Wide Rate ¹⁵	2.39

*No Shipments or sales to this review, and the firm has an individual rate from a prior segment of the proceeding in which the firm had shipments or sales.

¹⁴ This rate is also applicable to QVD Dong Thap Food Co., Ltd. (“Dong Thap”) and Thuan Hung Co., Ltd. (“THUFICO”). In the second review of this order, the Department found QVD, Dong Thap and THUFICO to be a single entity, and because there has been no evidence submitted on the record of this review that calls this determination into question, we continue to find these companies to be part of a single entity. Therefore, we will assign this rate to the companies in the single entity. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 53387 (September 11, 2006).

¹⁵ The Vietnam-wide rate includes the following companies which are under review, but which did not submit a separate rate application or certification: East Seafoods Limited Liability Company and Anvifish Joint Stock Company.

Disclosure, Public Comment & Opportunity to Request a Hearing

The Department will disclose the calculations used in our analysis to parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit case briefs within 30 days after the date of publication of these preliminary results of review in the *Federal Register*.¹⁶ Rebuttals to case briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the time limit for filing case briefs.¹⁷ Parties who submit arguments are requested to submit with the argument (a) a statement of the issue, (b) a brief summary of the argument, and (c) a table of authorities.¹⁸ Parties submitting briefs should do so pursuant to the Department's electronic filing system, IA ACCESS.

Any interested party may request a hearing within 30 days of publication of this notice.¹⁹ Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230.²⁰

The Department intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results in the *Federal Register*, pursuant to section 751(a)(3)(A) of the Act.

¹⁶ See 19 CFR 351.309(c)(1)(ii).

¹⁷ See 19 CFR 351.309(d)(1)-(2).

¹⁸ See 19 CFR 351.309(c)(2), (d)(2).

¹⁹ See 19 CFR 351.310(c).

²⁰ See 19 CFR 351.310(d).

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.²¹ The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review.

For any individually examined respondent whose weighted average dumping margin is above *de minimis* (*i.e.*, 0.50 percent) in the final results of this review, the Department will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of sales, in accordance with 19 CFR 351.212(b)(1). Where an importer- (or customer-) specific *ad valorem* rate is greater than *de minimis*, the Department will instruct CBP to collect the appropriate duties at the time of liquidation.²² Where either a respondent's weighted average dumping margin is zero or *de minimis*, or an importer- (or customer-) specific *ad valorem* is zero or *de minimis*, the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.²³ For the respondents that were not selected for individual examination in this administrative review and that qualified for a separate rate, the assessment rate will be the rate calculated for HVG.²⁴ We intend to instruct CBP to liquidate entries containing subject merchandise exported by the Vietnam-wide entity at the Vietnam-wide rate.

The Department refined its assessment practice in NME cases. Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during the administrative review, the Department will instruct

²¹ See 19 CFR 351.212(b).

²² See 19 CFR 351.212(b)(1).

²³ See 19 CFR 351.106(c)(2).

²⁴ See Preliminary Decision Memorandum.

CBP to liquidate such entries at the Vietnam-wide rate. Additionally, if the Department determines that an exporter had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's rate) will be liquidated at the Vietnam-wide rate.²⁵

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of the subject merchandise from Vietnam entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For the companies listed above that have a separate rate, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis*, then zero cash deposit will be required); (2) for previously investigated or reviewed Vietnam and non-Vietnam exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all Vietnam exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the Vietnam -wide entity; and (4) for all non-Vietnam exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Vietnam exporter that supplied that non-Vietnam exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping

²⁵ For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This preliminary determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 2, 2014.

Ronald K. Lorentzen,
Acting Assistant Secretary
for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum:

1. Case History
2. Scope of the Order
3. Preliminary Determination of No Shipments
4. Non-Market Economy Country Status
5. Separate Rates
6. Vietnam-Wide Entity
7. Surrogate Country
8. Determination of Comparison Method
9. Results of Differential Pricing Analysis
10. Comparisons to Normal Value
11. U.S. Price
12. Normal Value
13. Factor Valuations
14. Currency Conversion

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